



**United States Environmental Protection Agency
Region 1
1 Congress Street, Suite 1100
Boston, MA 02114-2023**

**Certified Mail
Return Receipt Required**

Peter Bent, Owner

Brown's Yacht Yard, Inc.
Route 139 East Maine Street
Gloucester, MA 01930

Re: Request for Information Pursuant to Sections 308 and 311 of the Clean Water Act
(33 U.S.C. §§ 1318 and 1321), Docket No. 08-308-016.

Dear Mr. Bent:

On July 31, 2007, staff from the U.S. Environmental Protection Agency, Region I ("the EPA" or "the Region") inspected Brown's Yacht Yard, Inc., located on Route 139 East Maine Street, Gloucester, MA. Based on information collected during the inspection, Brown's Yacht Yard may be in violation of certain federal regulations. During the inspection, inspectors observed, among other things, process wastewaters from a test engine and power washing operations discharging to waters of the United States without National Pollutant Discharge Elimination System ("NPDES") permit authorization. In addition, inspectors also observed storage of over 1,320 gallons of oil without a Spill Prevention, Control and Countermeasure Plan ("SPCC"). Such unpermitted discharges and failure to prepare and fully implement a SPCC Plan violate the federal Clean Water Act.

The federal Clean Water Act ("Act"), 33 U.S.C. § 1251, *et seq.*, prohibits the discharge of pollutants into waters of the United States, except as authorized by a permit issued pursuant to Section 402 or 404 of the Act, 33 U.S.C. § 1342 or § 1344. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

Sections 308(a) and 311(m) of the Act 33 U.S.C. §§ 1318(a) and 1321(m), authorize EPA to require any owner or operator of a point source to provide information needed to determine whether there has been a violation of the Act. Accordingly, you are hereby

required, pursuant to sections 308(a) and 311(m) of the Act, 33 U.S.C. § 1318(a) and 1321(m), to respond to the enclosed Request for Information (“the Request”) in Attachment A **within thirty (30) calendar days of receipt of this letter.**

Please read the instructions in the Enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. Please respond separately to each of the questions, referencing each question by number. Your response must include copies of all records and information referenced in the response. If the documentation that supports a response to one item duplicates the documentation that supports another item, you need only submit one copy of the documentation. Your response to the Request must be accompanied by a certificate that is signed and dated by the person who is authorized to respond to the Request. The certification must state that your response is complete and contains all information and documentation available to you that is responsive to the Request. A Statement of Certification is enclosed with this letter, Attachment B.

Information submitted pursuant to this Request shall be sent by certified mail and shall be addressed as follows:

United States Environmental Protection Agency, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023
Attention: Joseph Canzano, SEW

The Small Business Regulatory Enforcement and Fairness Act (“SBREFA”) provides small businesses with the opportunity to submit comments on regulatory enforcement at the time of an Agency enforcement activity. The enclosed Information Sheet provides information on this right, as well as information on compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. Please be aware that this does not relieve you of your responsibility to comply with federal law, and the Request.

You may also wish to visit EPA’s websites to obtain more information on federal storm wastewater requirements at:

http://cfpub.epa.gov/npdes/stormwater/indust.cfm?program_id=6, and

<http://www.epa.gov/region1/topics/water/stormwater.html>

You may assert a business confidentiality claim with respect to part, or all, of the information submitted to the Region in the manner described at 40 C.F.R. Part 2.203(b). Information covered by such a claim will be disclosed by the Region only to the extent, and by means, of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to the Region, it may be made available to the public by the Region without further notice.

Compliance with the Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, may result in an enforcement action by EPA pursuant to Section 309 of the Act, 33 U.S.C. § 1319. This statute permits EPA to seek the imposition of penalties. In addition, any person who knowingly submits false information may be subject to criminal prosecution under 18 U.S.C. § 1001.

If you have any technical questions regarding Part I or Part II of the Request, please contact Mr. Joseph Canzano, Environmental Engineer, at 617-918-1763 or Mr. Donald Grant, Environmental Engineer, at 617-918-1768 respectively. If you have any legal questions, please contact Jeffrey Kopf, Senior Enforcement Counsel, at 617-918-1796.

Sincerely,

Joel Blumstein, Enforcement Manager
Office of Environmental Stewardship
Enclosures:

Information Request
Information Sheet (U.S. EPA Small Business Resources), October 2007

Guidance Enclosure

Information Request

This information is requested pursuant to Sections 308(a) and 311(m) of the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1321(m).

1. Please provide a separate narrative response to each and every question and subpart of a question set forth in this Request. Precede each answer with the text and the number of the question and the subpart to which the answer corresponds. All documents submitted must contain a notation indicating the question and subpart of the question to which they are responsive.
2. If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain.
3. If information or documents not known or not available to you as of the date of the submission of your response to this request should later become known, or available to you, you must supplement your response to the EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the Region of this fact as soon as possible and provide a corrected response.

Attachment A

Respond to the Following

Part I. Process and Storm Waters

Part I and II of this Request relate to Brown's Yacht Yard, Inc., located on Route 139 East Maine Street, Gloucester, MA (hereafter referred to as "the Facility"). Please provide an answer to each question separately.

1. Please provide the full name of all owner(s) and operator(s) of the Facility. Provide the full legal name of each entity, address and fully explain the legal relationship between each of these owners and operators. In addition:
 - a. Provide the date that the current operator commenced each operation¹ and when the operation was acquired by the current owner.
 - b. Name all of the owners and operators from October 30, 2000, to the present.
2. For each entity specified in response to Question 1, provide a diagram that illustrates the corporate and management structure of the entity. Please identify who has responsibility for environmental compliance within the organization, and where that responsibility is located within the organization.
3. From January 1, 2003, to the present, please provide the following information for each operation at the Facility.
 - a. A list and detailed description of each operation. For each operation, provide the date that the operation commenced and, if applicable, the date the operation ceased.
 - b. The Standard Industrial Classification ("SIC") code(s) for each operation specifying the primary and secondary SIC code(s).
 - c. Describe all activities, in chronological order, associated with each operation, including the period of time and dates during which the activities occurred. Provide a detailed site diagram that illustrates the location where each of these activities take or took place. The site diagram shall be prepared by a licensed professional engineer.

¹ For the purpose of this letter, an "operation" is a complete manufacturing or industrial process such as, but not limited to, wet abrasive blasting, hydroblasting and steam cleaning of vessels, engine repair and testing, sanding, painting and gel-coating, etc.

- d. Describe which activities described in Question 3.c. above are conducted inside, which are conducted outside, whether there is any cover over the activity, and whether the activity is exposed to storm water. For each activity exposed to storm waters, describe whether any controls are in place to prevent pollutants from being exposed and discharged during storm events. If there have been any changes to the activity's exposure to storm events since January 1, 2003, please describe those changes in detail.
4. Provide the following information for those operations listed in response to Question 3 above that, since January 1, 2003, have or had a discharge of any process waste waters including pressure washing of vessels, engine repair and testing, sanitary waste waters, or cooling waste waters, and any vehicle or other wash water activities to a surface water (e.g., Gloucester Harbor).
 - a. Describe the nature of each discharge and waste stream. Specify the process or other source for the discharge and the activities that contribute to the discharge. Examples of activities include, but are not limited to, pressure washing of vessels, engine repair and testing, sanitary waste waters, cooling waste waters, and any vehicle or other wash water activities. Specify the chemicals, additives and materials¹ that are used in each of these processes.
 - b. Provide, in gallons per day, estimated or actual daily maximum and monthly average volumetric flow rates discharged from each waste stream, and the total discharge for the year to surface waters. If the flow rate is estimated, please indicate by what manner flows were estimated.
 - c. Describe in detail the means by which process water is discharged (e.g., pipe, catch basin, drain) to a surface water.
 - d. For each discharge from an operation to surface waters, state the name and location of the surface water, and provide the date(s) that the discharges commenced and the date(s) that the discharges ceased.
 - e. Provide all analytical results for all monitoring of any of the discharges from January 1, 2003, to the present. All results shall clearly reference a site diagram, as required in Question 3.c. above, that illustrates the exact location where monitoring occurred.
 - f. Provide a copy of all discharge permits in effect or permit authorization notices as well as the permit number and date of coverage since January 1,

¹ "Materials" include, but are not limited to, bottom and surface paints, epoxys, gel-coating chemicals, solvents, caustics, acids, surfactants, glycol ethers, oils, etc.

2003. If a permit was not obtained for any process waste water discharges, please provide a detailed explanation as to why a permit was not obtained.

- g. If either the use of water or the discharge has changed since January 1, 2003, provide a chronological description of all changes in water use or discharge including the period of time and dates during which each water use or discharge occurred.
 - h. Provide all past and current plans or schedules, and actual or estimated costs for ceasing the discharges listed in response to Question 4.a. above. If no plans exist, submit such plans with a construction schedule.
 - i. Provide actual or estimated costs (material and labor) for ceasing the discharges listed in response to Question 4.a. above. Also, please provide, in chronological order, all invoices.
5. Provide the following information for storm water discharges from each operation listed in response to Question 3 above to surface waters.
- a. For each storm water discharge to surface waters, provide a detailed site diagram which meets the conditions set forth in Part 4.4.4. "Site Description" of *EPA's NPDES Multi-Sector Permits for Storm Water Discharges Associated with Industrial Activities*, effective October 30, 2000. The diagram and narrative description shall clearly illustrate (1) any and all means by which storm water currently flows across and off each operational area and (2) all diversion or control structures in place to reduce the pollutant load carried off each operational area.
 - b. For each storm water discharge to a surface waters, state the name and location of the surface water on a map and indicate the nearest named surface water.
 - c. If storm waters from an operation are not discharged to surface waters, please describe where storm waters flows to, and how it is discharged (e.g., infiltrated into the ground).
 - d. If the discharge of storm waters has changed since January 1, 2003, please provide a chronological description of all changes in the discharge.
6. Provide a list of each operation in response to Question 3 above where permit coverage was sought for storm water discharges from January 1, 2003, to the present.

- a. Provide a copy of each original signed (and dated) application or Notice of Intent (“NOI”) used to first obtain permit coverage and all subsequent applications or NOIs.
 - b. Provide a copy of each original and subsequent permit or permit authorization notice as well as the permit number and the dates of coverage.
 - c. If storm water permit coverage was not sought for an operation, provide a detailed explanation of your reason(s) for not obtaining permit coverage.
7. Please provide the following information for each operation listed in response to Question 3 above:
- a. Is there a current Storm Water Pollution Prevention Plan (“SWPPP”)? If the answer is affirmative, please state when the original SWPPP was prepared and what were, if any, the dates of all revisions to the SWPPP. Please submit a complete copy of all SWPPPs (and amendments thereto) that were prepared since January 1, 2003.
 - b. If a SWPPP was not prepared, please provide a detailed explanation of your reason(s) for not developing a SWPPP.
 - c. Provide a chronological listing of when “*Routine Facility Inspections*” were conducted to evaluate applicable storm water pollution prevention measures. Please submit a copy of all inspections performed from January 1, 2003, to the present.
 - d. Provide a chronological listing of when “*Annual Comprehensive Site Evaluation Inspections*” were performed. Please submit a copy of all inspections performed from January 1, 2003, to the present.
 - e. Provide a chronological listing of when “*Visual Monitoring Inspections*” of storm water discharges was conducted. Please submit a copy of all inspections performed from January 1, 2003, to the present.
 - f. Provide a chronological listing of when “*Benchmark Monitoring Inspections*” of storm water discharges was conducted. Please submit a copy of all results from January 1, 2003, to the present.
 - g. Provide a chronological listing of all stormwater inspections and monitoring not included in response to Question 7.c. through 7.f. above. Please submit copies of all reports of these inspection and monitoring results from January 1, 2003, to the present.

- h. Provide the name and credentials of all facility personnel who performed inspections identified in above.
- 8. In an October 21, 2007 letter from Brown's Yacht Yard to the EPA, Brown's Yacht stated, "Have purchased a waste water treatment system ... and are in the process of installing." Please provide the following information:
 - a. Process flow diagram illustrating the system. The diagram shall be stamped by a licensed professional engineer, indicate the operating conditions for the system, and ultimate discharge location for treated waters.
 - b. A copy of all local building, plumbing and electrical permit applications and permits sought for the installation of the system.
 - c. A narrative description of the system which shall include, but is not limited to, process waters to be treated, maximum daily flow rates, treatment chemical use, and operating instructions.
 - d. Indicate the personnel who will be responsible for the day-to-day operation and maintenance of the system. In addition, state if a waste water treatment operator's license from the Commonwealth of Massachusetts is required for the system.
 - e. Provide an itemized cost for the system, including but not limited to, engineering design, permits, and installation including parts and labor, and the expected annual operating cost.

Part II. Oil Pollution Prevention

Please provide the following information for the Facility.

- 1. Provide a list of all the oil storage capacity, both underground and aboveground, (including tanks, drums, transformers, oil-filled systems, etc. that are 55-gallons or larger) and the type of oil stored in each container. Indicate each container's age, and method of construction (e.g. single or double wall, steel or fiberglass). Also indicate whether any secondary containment was provided around the storage container. If there was containment, list its method of construction and the total volume it can contain.
- 2. State whether the Facility is required by 40 C.F.R. Part 112 to have a Spill Prevention Control and Countermeasure ("SPCC") Plan.

3. Provide the date the Facility first started having oil storage capacity over the SPCC regulatory thresholds set forth in 40 C.F.R. § 112.1(d)(2) (i.e. the total underground oil storage capacity greater than 42,000 gallons, or, the total aboveground oil storage capacity greater than 1,320 gallons).
4. If the Facility is required to have a SPCC Plan, state whether the facility has a Plan and whether it was fully implemented.
 - a. If the facility has a SPCC Plan, submit a copy.
 - b. If the facility does not have a SPCC Plan, provide a schedule when a SPCC Plan will be completed and copy submitted.
 - c. Provide the estimated or actual cost (labor and material) of preparing the SPCC Plan.
 - d. Provide the estimated cost of implementing the Plan (including the cost of constructing secondary containment at the facility).
 - e. Provide the estimated ongoing annual costs of plan implementation (including training, inspections and record keeping).
5. If you believe that the Facility is not required to have a SPCC plan, provide an explanation, supported by documentation, as to why the Facility is not subject to Oil Pollution Prevention regulations.

End of Questions.

Attachment B

Declaration

I declare under penalty of perjury that I am authorized to respond on behalf of Brown's Yacht Yard, Inc. I certify that the foregoing responses and information submitted were prepared by me, or under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By _____
(Signature)

(Title)

(Date)